

ATTORNEY DOCKET No. 114596-05-4013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/239,194 Confirmation No.: 9716
Applicant: John S. Yates, Jr., et al.
Title: EXECUTING PROGRAMS OF A FIRST COMPUTER ARCHITECTURE
ON A COMPUTER OF A SECOND ARCHITECTURE
Filed: January 28, 1999
Art Unit: 2195
Examiner: Kenneth Tang
Atty. Docket: 114596-05-4013
Customer No. 38492

I certify that this correspondence, along with any documents referred to therein, is being deposited with the United States Postal Service on July 13, 2005 as First Class Mail in an envelope with sufficient postage addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

AFTER FINAL - EXPEDITED PROCEDURE

**REQUEST TO FOR "PERSONAL CHECK" BY SUPERVISORY EXAMINER
AND
REQUEST FOR APPEAL CONFERENCE**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to MPEP § 707.02 and the initiative announced by Director Dudas on March 4, 2005, Applicant requests an appeal conference, and that Supervisory Examiner An "personally check" on this application, in light of the "Preliminary Comments Accompanying Notice of Appeal" filed herewith.

MPEP § 707.02 provides for the "personal check" requested by this paper:

707.02 Applications Up for Third Action and 5-Year Applications [R-2]

The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them.

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Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its

07/18/2005 HVUONG1 00000043 09239194

01 FC:1401 500.00 OP

Request for "Personal Check" and Appeal Conference
This paper dated July 13, 2005

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prosecution. In order to accomplish this result, the application is to be considered "special" by the examiner.

This application has now been pending for over six years.

Appeal cannot proceed efficiently because a number of Examiner Tang's positions are unexplained, or requested clarifications have not been provided. For example, he states that he requires certain claim amendments, but cites no legal authority to support his requirement, gives no explanation of the defect he observes, and gives no explanation of the types of amendments that would address any legitimate concern – Applicant is left in the dark, unable to determine what the Examiner's concerns are, or what amendment might respond to those concerns. In other cases, where certain claim language appears to be entirely omitted from Examiner Tang's analysis under § 102 and/or § 103, Applicant has requested Examiner Tang to explain how the references meet that claim language. Examiner Tang has been silent.

In several cases, Applicant has explained a defect in Examiner Tang's reasoning. Examiner Tang has responded "The Examiner respectfully disagrees" or "The 35 USC 112 2nd paragraph rejection is clear." This is not a useful substitute for an explanation. The Examiner's personal opinion, whether framed as "disagreement" or a bald statement that something is "clear," is simply irrelevant. To move an application forward, an applicant requires an explanation, including a statement of any legal principle relied on, citation to authority for any unfamiliar legal principle, a "designation" of "the particular part [of each reference] relied on," and an explanation of "the pertinence of each reference." 37 C.F.R. §§ 1.104 and 1.113 require these components of any explanation before any rejection matures into a final rejection. MPEP § 707.07(f) requires that an examiner "Answer All Material Traversed," not that the Examiner express his personal opinion of his own work.

The examination of this application has been remarkably careless. Applicant requests that Examiner Tang be refreshed in his understanding of the requirements for examination of applications – most notably, that he must address every word of the claims, not just the nouns and a few scattered verbs.

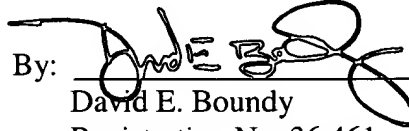
In view of that carelessness, Applicant requests that if any rejection arises out of the appeal conference, that rejection be set forth clearly and completely in a non-final Office Action, with a fair opportunity to respond.

It is believed that this paper occasions no fee. Kindly charge any fee due to Deposit
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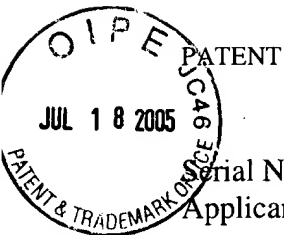
Respectfully submitted,

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Dated: July 13, 2005

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PRELIMINARY COMMENTS ACCOMPANYING NOTICE OF APPEAL

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Applicant hereby responds to the Office Action of January 13, 2005.

REMARKS/ARGUMENTS begin on page 1 of this paper.

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